

HIGHER EDUCATION COMMUNITY STATEMENT ON THE INNOVATION ACT

Six Associations Support Tailored Legislation to Combat Patent Trolls, Say Provisions of Innovation Act Would Debilitate U.S. Patent System

The undersigned higher education associations support narrowly tailored legislative efforts to rein in the abusive litigation practices of patent trolls. Universities have no sympathy for those who abuse the patent system to extract unjust and sometimes exorbitant settlements. Unfortunately, the Innovation Act is not narrowly tailored. It is instead so broad that it would have the unintended consequence of debilitating the U.S. patent system, which is critical to the nation's economy.

Our associations cannot support the Innovation Act as drafted because it would substantially raise the costs and risks associated with patenting, discouraging the private sector from turning research discoveries at U.S. universities into the innovations that improve our nation's economy, health, and quality of life.

For universities specifically, a strong patent system helps to ensure that research discoveries can be transferred to the private sector and make their way to consumers as useful new products and processes. If universities are unable to protect discoveries, the private sector will be significantly less likely to invest in and commercialize them.

The provisions with the most potential for damaging university technology transfer include fee-shifting and joinder. Most universities, non-profit technology transfer organizations, and their licensees — often small businesses and start-ups— lack extensive resources to enforce their patents. The heightened litigation risks created by the fee-shifting and joinder provisions in the Innovation Act would devalue patents, creating uncertainty that would undermine the incentives of potential licensees and venture capitalists to invest in commercialization of university innovation.

The nation's economy and millions of jobs depend on effective transfer of technology from university labs to the marketplace. Therefore, we must oppose measures that, in an attempt to rein in the exploitative practices of a small minority of patent holders, would weaken the overall patent system and reduce the capacity of universities to partner with those who can commercialize our research discoveries.

To be clear, our associations want Congress to pass legislation this year that would put an end to the abusive behavior of patent trolls. However, such legislation should promote, not discourage, technology transfer. And it must sustain our fair and strong patent system, which is the envy of the world. We believe that Chairman Goodlatte's bill has the potential, if properly redrafted, to accomplish this goal. We look forward to working with him to achieve such a positive outcome for patent holders and the American public.

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